

MAR 10 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHARLES LOWELL KENTZ,

Petitioner - Appellant,

v.

JEFF WRIGLEY,

Respondent - Appellee.

No. 07-15259

D.C. No. CV-06-00961-AWI

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted February 26, 2008^{**}

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Federal prisoner Charles Lowell Kentz appeals from the district court's denial of his 28 U.S.C. § 2241 petition and motion for preliminary injunction. We have jurisdiction pursuant to 28 U.S.C. §§ 1291 and 2253, and we affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Kentz contends that his due process rights were violated because he was not provided with advanced written notice of the prison disciplinary violation for which he was charged, and was not provided with the disciplinary hearing officer's report after his disciplinary hearing. However, because these claims were not raised in his habeas petition, or in his motion for a preliminary injunction, they are not cognizable on appeal. *See Belgarde v. Montana*, 123 F.3d 1210, 1215-16 (9th Cir. 1997); *Cacoperdo v. Demosthenes*, 37 F.3d 504, 507 (9th Cir. 1994).

Furthermore, we cannot consider Kentz's contention that the district court erred in its order denying his motion to alter or amend the judgment pursuant to Federal Rule of Civil Procedure 59(e), because Kentz failed to file a notice of appeal or amended notice of appeal as to that order. *See Fed. R. App. P.* 4(a)(4)(B)(ii).

AFFIRMED.